

Remarks

General:

Claims 10-18 are pending in the application. Claims 10-18 are rejected.

Information Disclosure Statement:

Two non-US references on a previously filed IDS were disallowed on the ground that copies of the references were not provided. (The applicants had relied on WIPO to forward copies of the references to the USPTO, and WIPO failed to do so.) A fresh IDS with copies of the references is filed herewith.

35 USC § 102:

Claims 10-18 were rejected as anticipated by DE 37 40 821 A (Schröter). The rejection is traversed. The examiner appears to have misunderstood Schröter's disclosure. In case they may be of assistance to the examiner, an English-language abstract and a machine translation of the text of Schröter, obtained from the European Patent Office's Esp@cenet web-site, are filed herewith. The examiner states that Schröter "is a device comprising a rotatable wheel (5,9) and a fixed part (6,7) located inside the rotatable."

In fact, the wheel in Schröter's device is item (8). See the end views in Figs. 3, 4, 8, and 9 where the wheel is shown with a ring of scoops for water around its outer edge. Item (9) is a fixed dam, outside the wheel (8), closing the space between the bottom of the wheel and the stream bed (1), best seen in Fig. 9. Item (7) is a fixed shutter, outside the wheel. Item (6) is a moving shutter that slides over the fixed shutter (7) and closes against the bottom dam (9), as best seen in Fig. 9: the opening and closing of the gap between the shutter (6) and the dam (9) regulates the water flow through the wheel. Item (5) is a bypass flap hinged to the top of the fixed shutter (7), see dotted lines in Fig. 4 showing how the flap folds down to allow ice and scum to flow over.

Schröter does not disclose or suggest a dam inside the wheel as recited in claim 10.

It is therefore believed that the present invention, as claimed in claim 10, is both novel and non-obvious over Schröter. Claims 11-18 are dependent from claim 10 and, without prejudice to their individual merits, are deemed novel and obvious over Schröter for at least the same reasons as claim 10. In addition, however, claims 11-18 recite additional features that are believed not to be disclosed or suggested by Schröter, and that the office action does not allege are disclosed or suggested by Schröter. For these reasons also, claims 11-18 are deemed to be novel and non-obvious over Schröter.

Claims 10-18 were rejected as anticipated by US 6,210,113 (Ihrenberger). The rejection is traversed. The examiner states that Ihrenberger "is a device comprising a rotatable wheel (2) and a fixed part (1) located inside the rotatable." However, the fixed part (1) in Ihrenberger is a wheel shaft, see col. 5, line 56. Claim 10 recites "a fixed part located inside the rotatable wheel and serving as a dam to retain a water level." Ihrenberger's wheel shaft (1) does not and cannot serve as a dam, nor retain a water level. The only configuration of Ihrenberger's turbine where a dam is used is the middleshoot configuration, see Fig. 5, in which the dam is outside the wheel. The shaded structures shown inside the wheel (2) in some of Ihrenberger's drawings, and numbered (8) in Fig. 2, are cams. The cams are not shown as serving as a dam, nor as retaining a water level. Cams are typically short in the axial direction and would not be capable of acting as dams. There is no indication that Ihrenberger's cams are any different from the usual type.

Ihrenberger does not disclose or suggest a dam inside the wheel as recited in claim 10.

It is therefore believed that the present invention, as claimed in claim 10, is both novel and non-obvious over Ihrenberger. Claims 11-18 are dependent from claim 10 and, without prejudice to their individual merits, are deemed novel and obvious over Ihrenberger for at least the same reasons as claim 10. In addition, however, claims 11-18 recite additional features that are believed not to be disclosed or suggested by Ihrenberger, and that the office action does not allege are disclosed or suggested by Ihrenberger. For these reasons also, claims 11-18 are deemed to be novel and non-obvious over Ihrenberger.

Conclusion:

In view of the foregoing, claims 10-18 are deemed to be in order for allowance. Reconsideration and withdrawal of the examiner's rejections and an early notice of allowance of all claims are earnestly solicited.

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